

AMERICAN REFRIGERATOR TRANSIT CO.

210 NORTH 13TH ST., ST. LOUIS, MISSOURI 63103
TEL. AREA CODE 314 622-2716

ROBERT J. DUNNE, JR.
PRESIDENT AND GENERAL MANAGER

September 23, 1981

File: E-55
cc: S-408
S-409

FOR DELIVERY BY MESSENGER: 13246

RECORDATION NO. 13246 Filed 1425

Mrs. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

SEP 28 1981 - 4 00 PM

13246
RECORDATION NO. 13246 Filed 1425

1-271A123

No. 1
SEP 28 1981

Date.....

Fee \$100.00

INTERSTATE COMMERCE COMMISSION
SEP 28 1981 - 4 00 PM

Washington, D.C.

Dear Mrs. Mergenovich:

INTERSTATE COMMERCE COMMISSION

Enclosed as information and for recording, pursuant to Section 11303 of the Interstate Commerce Act, are four (4) fully executed copies of each of two related leases. The first is between Badische Corporation and American Refrigerator Transit Company and is dated August 29, 1981. The second is between American Refrigerator Transit Company and Chicago Heights Terminal Transfer Railroad Company and is dated September 10, 1981. Two copies of each lease are for retention in your Commission's files, the other two copies of each to be appropriately stamped or otherwise processed to show recordation date, and to be returned to:

Mrs. Judy Durand, Vice-President
Missouri Pacific Railroad Company
1825 K Street, N. W.
Suite 1203
Washington, D.C. 20006
Telephone No. - 202-628-7257

who will arrange to pick up at your office as soon as recordation has been accomplished.

The leases transmitted herewith for filing and recording cover the following equipment:

No. of Units	Description	Numbers
184	4,750 cu. ft. 100-Ton Covered Hopper Cars	CHTT 719500-719683

The names and addresses of the parties to the transactions set forth in these leases, herewith transmitted for filing and recording, are:

Badische Corporation
P.O. Drawer D.
Williamsburg, VA 23185

(N) American Refrigerator Transit Company
210 North 13th Street
St. Louis, MO 63103

(1) Chicago Heights Terminal Transfer Railroad Company
210 North 13th Street
St. Louis, MO 63103

Two checks in the amount of \$50 each are enclosed herewith to cover filing and and recording fees.

Very truly yours,

/bjg - Enclosures

Robert J. Dunne, Jr.

C. Dunne, Jr.
Kohorn E. Hark

RECEIVED
SEP 28 3 51 PM '81
FILING BE.

1-271A124

SEP 28 1981 - 4 00 PM

No. SEP 28 1981
Date.....
Fee \$ 50.00

INTERRAILROAD EQUIPMENT LEASE

ICC Washington, D. C.

THIS AGREEMENT dated as of this twenty-ninth day of August, 1981, by and between BADISCHE CORPORATION, a Delaware corporation, hereinafter called "Lessor," and AMERICAN REFRIGERATOR TRANSIT COMPANY, a New Jersey corporation, hereinafter called "Lessee."

WITNESSETH:

WHEREAS, the Lessor has possession and right to utilize certain railroad cars under a lease agreement dated as of June 1, 1981, ("Prime Lease") in which Exchange National Bank of Chicago, a national banking association (acting not in its individual capacity but solely as Trustee under a Trust Agreement, dated as of June 1, 1981, between the Trustee and General Electric Credit Corporation, a New York corporation) is the Prime Lessor, and Lessor wishes to sublease to Lessee, and Lessee wishes to sublease from Lessor, such of said cars as designated on Schedule A hereto, all subject to the existing rights of Prime Lessor, Owner Participant and Long-Term Lenders under the Prime Lease,

NOW, THEREFORE, in consideration of the rentals reserved herein and of the mutual covenants and agreements contained in this Lease, it is hereby agreed:

1. Lease: Term.

(a) Lease. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, upon the terms and conditions herein set forth, the railroad cars described in the Schedule A attached hereto, hereinafter collectively referred to as "Cars" and individually referred to as the "Car," and to pay Lessor during the term of this Lease the rent set forth in Paragraph 7 of this Lease.

(b) Term. The term of the Lease, as to each Car, shall commence on the date of delivery to Lessee specified in Lessee's Certificate of Inspection and Acceptance for each such Car as provided in Paragraph 3 of this Lease and shall continue in effect as to all Cars under this Lease until December 31, 2006; provided, however, that Lessee may, not later than July 1, 1991, give written notice to Lessor of Lessee's desire to renegotiate the management fee specified elsewhere herein. Thereafter, Lessor and Lessee shall negotiate in good faith toward reaching agreement on a management fee for the period commencing January 1, 1992, and if the parties cannot so agree, then Lessee may terminate this Lease, effective as of December 31, 1991, upon not less than sixty (60) days prior written notice to Lessor. In no event, however, shall the term of this Lease as to any Car, or all of the Cars, be longer than the Basic term of the Prime Lease, unless sooner terminated in accordance with this Lease or unless extended pursuant to written agreement between the parties.

2. Delivery. Lessor shall deliver the Cars as soon as is reasonably possible after the execution of this Lease, to the Lessee, or to the party designated by Lessee, at the point of manufacture. Lessor's obligations with respect to delivery of all or any of the Cars are hereby made expressly subject to, and Lessor shall not be responsible for, failure to deliver or delays in delivering the Cars due to labor difficulties, fire, delays or defaults of

carriers and material suppliers or Car manufacturers, acts of God, governmental acts, regulations and restrictions or any cause, casualty or contingency beyond Lessor's control. Lessee agrees to pay the monthly rental, or prorata portion thereof, as provided in Paragraph 7 hereof, on each of the Cars from the date each such Car has been delivered to Lessee until each such Car is returned to Lessor upon termination of this Lease.

3. Condition of Cars; Acceptance; Disclaimer of Warranties;

(a) Condition of Cars. All Cars delivered hereunder shall be in satisfactory condition for movement in the normal interchange of rail traffic, but Lessee shall be solely responsible at time of delivery for determining that the Cars are in proper condition for loading and shipment. Within three days after Lessor shall have given Lessee notice that some or all Cars are ready for delivery, Lessee may have its authorized representative inspect such Cars at the manufacturer's plant and accept or reject them as to condition. Cars so inspected and accepted by Lessee and any Cars which Lessee does not elect to inspect shall be conclusively deemed to meet all requirements of this Lease and any differences or discrepancies from specified condition, construction, type, equipment, or otherwise, are thereby waived by Lessee without further act on its part. Lessee shall issue and deliver to Lessor, with respect to all Cars accepted or deemed hereunder to meet the requirements of this Lease, a Certificate of Inspection and Acceptance.

(b) Disclaimer of Warranty. Except as set forth in this Lease, Lessor, not being the manufacturer or seller of the Cars, nor the manufacturer's or seller's agent, makes to Lessee no warranty or representation, express or implied, of merchantability or otherwise, including, but not limited to: the fitness, design or condition of the Cars; the quality or capacity of the Cars; the workmanship of the Cars; that the Cars will be fit for any particular purpose or end use by Lessee, whether known or unknown by Lessor; that the Cars will satisfy the requirements of any law, rule, specification or contract pertaining thereto; any guaranty or warranty against patent infringement or latent defects; and any other representation or warranty whatsoever, express or implied. Lessor agrees to assign to Lessee such rights as it may have under warranties, if any, which it may have received from the manufacturer of the Cars or any parts therefor and shall at Lessee's expense cooperate with Lessee and take such action as may be reasonably requested to enable Lessee to enforce such rights.

4. Use and Possession. During the term of this Lease, so long as Lessee is not in default hereunder, Lessee shall be entitled to possession of each Car from the date the Lease becomes effective as to each Car and Lessee may use the Cars upon the lines of any railroad or other person, firm or corporation in the usual interchange of traffic, but at all times subject to the terms and conditions of this Lease.

5. Transportation Costs and Duties. Lessor shall be liable for and shall pay or reimburse Lessee for any transportation costs, including but

not limited to switching charges, freight rates and demurrage or storage charges, occasioned by the movement of empty Cars at the direction or request of Lessor.

6. Taxes. Lessor shall be liable for and shall pay or reimburse Lessee for any payment of: (a) all Federal, State or local sales or use taxes imposed upon or in connection with the Cars or this Lease; and (b) all taxes, duties or imports assessed or levied on the Cars or this Lease by a foreign country or a governmental subdivision thereof. Lessee shall be liable for and shall pay or reimburse Lessor for any payment of: (a) all Federal, State or other governmental property taxes assessed or levied against the Cars during the term of this Lease; and (b) all taxes or charges assessed or levied against its interest as Lessee of the Cars.

7. Rent.

(a) Maximum Rent. Schedule A attached hereto sets forth as Maximum Rent a figure reflecting the Maximum per Car per month amount ever to be received by Lessor under this Lease. The Maximum Rent constitutes a figure which will never exceed the minimum per Car per month costs incurred by Lessor in connection with the furnishing of the Cars during the term of this Lease. Actual monthly payments by Lessee shall be made three (3) months in arrears at a per Car rate of \$120 less than the Maximum Rent figure set forth in the schedule and the tariff. Payment of the rental figures shown in Schedule A is contingent upon the issuance of a leasing tariff authorizing payment of same.

(b) Accounting and Adjustments. If, at any time, Lessee's earnings (amounts actually received by Lessee) as a result of any authorized sublease of the Cars, shall be less than an amount computed by multiplying Maximum Rent by the number of car-months accumulated, Lessor will pay to Lessee the difference as billed. Semiannually during the term of the Lease there will be an accounting between the parties. If, for any such period, the earnings of the Lessee from any authorized sublease of the Cars, shall exceed the Maximum Rent multiplied by the accumulated car-months, the Lessee shall make a further payment to the Lessor, provided that such payment shall not exceed the smaller of the excess earnings as defined above or the amount which, when added to the payments already made under Paragraph (a) hereof, shall equal the Maximum Rent, it being expressly understood that Lessor shall never receive more than the Maximum Rent which, as indicated, shall never exceed its actual costs. As part of each accounting, Lessor shall furnish Lessee with a document, certified by Lessor's principal accounting officer, showing its actual costs incurred in connection with the Cars during the covered period and the amounts received from Lessee under this Lease for the same period. For periods in which Lessee compensates Lessor on an average per car per month basis less than Maximum Rent, Lessee shall furnish Lessor with a document, certified by an officer of Lessee, setting forth the earnings of the Cars. The intent of this Lease is to assure that the amounts received by Lessor shall never exceed its costs but should such ever occur Lessor shall immediately refund the difference to Lessee.

(c) Duties of Lessee. In consideration of the benefits accruing to Lessee hereunder, and in addition to any other duty or obligation imposed upon Lessee by this Lease, Lessee shall assume the entire obligation and responsibility for processing AAR maintenance and repair bills, receiving amounts realized for car hire under any sublease, keeping current information and complying with any and all tariff publications and UMLER registrations, and the payment of ad valorem taxes levied by any governmental authority having jurisdiction thereof.

8. Maintenance and Repairs.

(a) Maintenance. Lessee, during the term of this Lease, promptly and with due diligence, shall keep and maintain the Cars, special interior linings or removable parts and provide such repair work or other work or materials as is necessary to maintain the same, in good working order and repair (ordinary wear and tear excepted) and make all replacements, changes or additions to the Cars or their equipment and appliances to the extent necessary or required from time to time; (a) by the Interchange Rules; (b) by applicable laws and regulations of any state or governmental body, including specifically, but not exclusively, the Interstate Commerce Commission; and (c) by the Prime Lease. All earnings in excess of \$767 per Car per month will be applied against future maintenance expenses. All maintenance expenses in excess of such amounts will be promptly billed to and paid by Lessor. Lessee shall provide underlying detail of repairs as requested.

(b) Loss, Theft or Destruction of Cars. In the event any car is lost, stolen, destroyed or, in the judgment of Lessee, damaged beyond economic repair, Lessee shall, by notice, promptly and fully advise Lessor of such occurrence. Lessee shall pay to Lessor the AAR depreciated value settlement made by Lessee with the railroad responsible for its destruction and from which Lessee has collected the settlement, and rental obligations as set forth in Paragraph 7 of this Lease shall cease as of the date of destruction. It is understood that should the AAR settlement amount that Lessee receives from the damaging railroad be greater than the amount Lessor is required to pay its Prime Lessor as provided in the Prime Lease, Lessor will be allowed only an amount equal to the amount which it is required to pay its Prime Lessor. On the other hand, in the event the AAR settlement amount is less than the amount Lessor is required to pay its Prime Lessor as provided in the Prime Lease, Lessor will be paid only the AAR settlement amount as received by Lessee. It is, also, understood that Lessee shall be required to make such payment to Lessor only after Lessee has collected settlement from the responsible railroad, and Lessee agrees to use its best efforts to collect such settlement.

(c) Abatement; Replacement. In the event a car becomes unfit for service and requires repairs, such Car, after a period of five (5) days from the date when such Car is made empty, will not be subject to the terms set forth in Paragraph 7 of this Lease until the date such Car is repaired and released for service. Lessor may, at any time and from time to time, replace any Car which has been lost, stolen, destroyed or damaged beyond economic repair, with Replacement Cars and such Replacement Cars shall be deemed to be subject to all terms and conditions of this Lease as if the

same had been originally delivered to Lessee at the time and in the place of Cars for which they are substituted. The parties shall execute amendments to this Lease and such other or further documents as may be required by either party hereto to evidence the withdrawal from and termination of this Lease with respect to Cars which have been lost, stolen, destroyed or damaged, or to include any Replacement Cars within the terms and provisions of this Lease.

9. Liens. Lessee shall keep the Cars free from any encumbrances, attachments, liens or legal processes which may be a cloud upon or otherwise affect Lessor's interest in the Cars, or which arise out of any suit involving Lessee, or any act, omission or failure of Lessee or Lessee's failure to comply with the provisions of this Lease, and shall promptly discharge any such lien, encumbrance, attachment or legal process.

10. Indemnity. Lessee agrees to indemnify Lessor and save it harmless from any charge, loss, claim, suit, expense or liability which Lessor may suffer or incur by reason of its ownership interest and which arises in connection with the use or operation of a car or the Cars during the term of this Lease, and without regard to how such charge, loss, claim, suit, expense or liability arises, except when caused by Lessor's negligence. The foregoing indemnity shall survive the termination of this Lease. Each party shall, upon learning of same, give the other prompt notice of any claim or liability hereby indemnified against.

11. Marking. At, or prior to, the time of delivery of each of the Cars, Lessor shall cause both sides of each Car to be distinctly, permanently and conspicuously marked by stenciling or by a metal plate affixed thereto, with such reporting marks and numbers as shall by that time have been provided to it by Lessee and with such other not-inconsistent marks as may be necessary to identify the underlying owner and Lessor during the term of this Lease. Lessee shall promptly replace any such marking which may be removed, destroyed or rendered illegible in whole or in part. Except for numbering and stenciling as provided herein, Lessee shall keep the Cars free from any marking or labeling which might be interpreted as a claim of ownership by Lessee or any Sublessee or other party receiving any rights as Sublessee or otherwise through Lessee and will not change, or permit to be changed, the identifying road numbers on any of the Cars; provided, however, that Lessee may permit the Cars to be lettered or marked in an appropriate manner for convenience of identification of the interest of Lessee or any Sublessee or to indicate the nature of the service furnished thereby. At the termination of this Lease, Lessee's marks shall be removed at Lessor's cost.

12. Per Diem. Lessor agrees that Lessee or any Sublessee may collect and retain any and all Car Hire charges applicable to the Cars, it being expressly understood that, in the event of a sublease to a railroad, when any Car is on the lines of the Missouri Pacific Railroad or any of its wholly-owned subsidiary rail lines, the "car hire," for these purposes shall be equivalent to mileage basis as provided in Item 621 to Mileage Tariff 6007, Supplements or Reissues thereof.

13. Inspection; Inventory. During the term of this Lease, Lessor, or a party designated by Lessor, shall have the right, at Lessor's own cost and expense, to inspect the Cars at any reasonable time or times wherever the Cars may be. Lessee shall, upon request of Lessor, but no more than once every year, furnish to Lessor two (2) copies of an accurate inventory of all Cars subject to this Lease.

14. Return of Cars. Upon the expiration or termination of this Lease, Lessee agrees to return the Cars, at the expense of Lessor, to the original point of delivery or to any other point designated by Lessor. The Cars shall be so returned free of all liens and charges, except as otherwise herein provided, and in the same or as good condition, order and repair as when delivered to Lessee, ordinary wear and tear excepted, and with all the same type and character of devices, appliances or appurtenances with which the Cars were equipped at time of delivery to Lessee. However, the preceding sentence shall not be binding upon Lessee for any Car which has been destroyed or damaged beyond economic repair, as previously provided herein, or which has been modified by agreement of the parties, during the term of this Lease.

15. Default. Any one of the following shall constitute an event of default: (a) Lessee shall fail to make any payment of rent when the same shall become due and such failure shall continue unremedied for a period of thirty (30) days; or (b) Lessee shall fail to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure shall continue unremedied for a period of thirty (30) days after written notice thereof by Lessor; or (c) Lessee shall admit in writing its inability to pay its debts or shall have made a general assignment for the benefit of creditors; or shall have been adjudicated bankrupt; or (d) a petition in bankruptcy or for reorganization or to effect a plan or other arrangement with creditors shall have been filed by or against Lessee under any Federal or State insolvency statute; or (e) Lessee shall have filed an answer to a creditor's petition or other petition filed against it (admitting the material allegations thereof) for an adjudication in bankruptcy or for a reorganization; or (f) Lessee shall have applied for or permitted the appointment of a receiver or trustee or custodian for any of its property or assets, or such receiver, trustee or custodian shall have been appointed for any of its property or assets (otherwise than upon application or consent of Lessee) and such receiver, trustee or custodian so appointed shall not have been discharged within sixty days after the date of his appointment; or (g) if an order shall be entered, and shall not be dismissed or stayed within sixty (60) days from its entry, approving any petition for a reorganization of Lessee; or (h) an attachment or execution is levied upon Lessee's property in or interest under this Lease which is not satisfied or released or stayed within thirty (30) days thereafter; or (i) Lessee shall cease to do business as a going concern and its pertinent obligations are not assumed by its parent or affiliated company, or (j) any action or inaction on the part of Lessee which constitutes a violation of any term or condition of the Prime Lease.

16. Remedies. Upon the happening of an event of default, Lessor, at its option, may: (a) proceed by appropriate court action either at law or in equity for specific performance by the Lessee of the applicable covenants of this Lease or to recover from Lessee all damages, including specifically but not exclusively, expenses and attorneys' fees which Lessor may sustain by reason of Lessee's default or on account of Lessor's enforcement of its remedies hereunder; or (b) declare this Lease terminated and recover from Lessee all amounts then due and payable plus all damages sustained by Lessor by reason of the breach of any covenant of this Lease other than the covenant to pay rent; or (c) recover or take possession of any or all of the Cars and hold, possess and enjoy the same, free of any right of Lessee to use the Cars for any purposes whatsoever, and in doing so Lessor may enter upon the premises of any person, firm or corporation controlled by or affiliated with Lessee where any Car or Cars may then be located, without the benefit of legal process and without liability to any such person, firm or corporation for damages of any kind, nature or description, and Lessee agrees to hold harmless and indemnify Lessor in this respect. No remedy referred to in this paragraph is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity. No express or implied waiver by Lessor of any event of default hereunder shall in any way be, or be construed to be, a waiver of any future or subsequent event of default.

17. Termination. In addition to the termination rights set forth in other paragraphs of this Lease, Lessor may terminate this Lease at any time by delivery of thirty (30) days prior written notice to Lessee. If in the judgment of Lessee, in good faith and reasonably exercised, it should become necessary to amend or terminate this Lease in order to comply with any legal requirement, including specifically any rule, regulation or order of a court or regulatory agency, Lessee shall give written notice thereof to Lessor. If, in Lessee's judgment, amendment of this Lease would accomplish compliance with such legal requirement, rule, regulation or order of a court or regulatory agency, Lessee's notice shall specify the necessary amendment and Lessor shall have the option to accept such amendment or terminate this Lease and shall notify Lessee of such choice within thirty (30) days after Lessor's receipt of Lessee's notice. If Lessor elects to terminate this Lease, or if Lessee's initial notice specifies termination as the only method of compliance with such legal requirement, rule, regulation or order of a court or regulatory agency, such termination shall be effective thirty (30) days after the receipt of the applicable notice.

18. Assignment and Sublease Binding Effect. This Lease and all rights of Lessor hereunder shall be assignable by Lessor without Lessee's prior consent but Lessee shall not be obligated to any assignee of Lessor except after written notice of such assignment from Lessor. Without prior written consent of Lessor, Lessee shall not assign this Lease or its interest hereunder or enter into any sublease with respect to all or any part of the Cars except that Lessee may sublease the Cars to the Missouri Pacific Railroad Company, or one of its subsidiary lines. This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

19. Notices. All notices required or permitted to be delivered to any party shall be in writing, and shall be deemed to be given, unless either party hereto has notified the other in writing of a change, when personally delivered to an officer of the other party or when deposited in the United States mails, certified or registered and postage prepaid as follows:

- (a) If to Lessor: P. O. Drawer D, Williamsburg, Virginia 23185,
- (b) If to Lessee: 210 North 13th Street, St. Louis, Missouri 63103.

20. Severability. If any provision hereof be invalid under any applicable law, such provision shall be inapplicable and deemed omitted but the remaining provisions hereof shall be given effect in accordance with the intent hereof.

21. Waiver; Amendment. No waiver by either party of any provision hereof shall constitute a waiver of any other matter. The Lease may only be amended by a writing signed by both Lessor and Lessee.

22. Counterparts and Headings. This Lease may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The paragraph headings are for reference purposes only and shall not affect in any way the meaning or interpretation of this Lease.

23. Recording. Lessee, without expense to Lessor, will cause this Lease and all amendments, or supplements, thereto to be duly filed and recorded with the Interstate Commerce Commission in accordance with Section 11303 of the Interstate Commerce Act.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

BADISCHE CORPORATION

AMERICAN REFRIGERATOR TRANSIT COMPANY

NAP By R. H. Hornum
Vice President - Finance

By E. B. D. Dunning
President and General Manager

Attest:

Attest:

W. M. Carleton

W. J. Hester
ASSISTANT SECRETARY

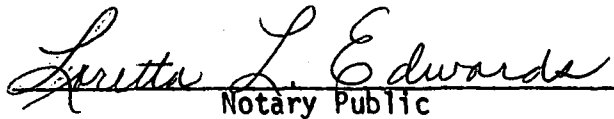
BADISCHE CORPORATION, LESSOR
AMERICAN REFRIGERATOR TRANSIT COMPANY, LESSEE

SCHEDULE A

<u>CARS</u>	<u>DESCRIPTION</u>	<u>LESSEE'S MARKS</u>	<u>MONTHLY RENT PER CAR</u>
184	4,750-100 TON "LO" ALUMINUM COVERED HOPPERS	CHTT 719500 through CHTT 719683, Incl.	MAXIMUM RENT \$647

STATE OF MISSOURI)
) : SS
CITY OF ST. LOUIS)

On this 29th day of August, 1981, before me personally appeared Robert J. Dunne, Jr., to me personally known, who being by me duly sworn says that he is President and General Manager of American Refrigerator Transit Company, and W. J. Herold to me personally known to be the Assistant Secretary of said corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

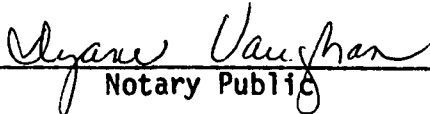

Notary Public

My Commission expires: January 28, 1982

LORETTA L. EDWARDS
Commissioned within and for the County of St. Louis,
Missouri, which adjoins the City of St. Louis, Missouri,
where this act was performed.

STATE OF VIRGINIA)
): SS
COUNTY OF JAMES CITY)

On this 14th day of July 1981, before me personally appeared K. H. Messinger, to me personally known, who being by me duly sworn Vice President/ says that he is Finance of Badische Corporation, and W. M. Caviston to me personally known to be the Secretary of said corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Notary Public

My Commission expires: November 20, 1983